IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION Nos.4779 of 2004, 5103 of 2004,

6798 of 2004 & Contempt Case No. 1309 of 2004

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1) WRIT PETITION NO : 4779 of 2004

Between:

1 M.Bhaskar, son of M.Naganna, student of PG MD(STD),
Kurnool Medical College, Kurnool
2 K.Sreenivasa Rao, son of K.Suryanarayana Murty,
P.G.Dip., STD Final year, Kurnool Medical College , Kurnool
3 D.Edukondala Rao, son of Venkaiah,
P.G.in MD(STD), Kurnool Medical College, Kurnool

..... PETITIONERS

AND

1 The Principal, Kurnool Medical College,
Kurnool
2 The Professor and Head of the Dept.,
Dematology, Kurnool Medical College, Kurnool
3 The Director of Medical Education,
Sultanbazar, Hyd
4 The Govt. of A.P., rep. by its Prl. Secretary , Health , Medical Family
Welfare Dept., Secretariat, Hyderabad
5 The N.T.R. University of Health Sciences, rep. by its Registrar, Vijayawada.
6 Dr. B. Prasanthi, D/o. B. Janardhan
Diploma in Dermatology II year in Osmania Medical College, Hyderabad.

R/o. 16-2-738/C/4, T.V. Tower, Malakpet, Hyderabad - 36.

7 Dr. Shakeela Bhanu, D/o. S.K. Anwar Hussain,
Diploma in Dermatology II year in Guntur Medical College, Guntur.
R/o. 26-4-24, OPP: Stall Girls School, Nagaram Palem, Guntur.

8 Dr. G. Ravindranath Reddy, S/o. G. Nagi Reddy,
Diploma in Dermatology II year in Osmania Medical College, Hyderabad.
R/o. 157, Vasanth Nagar, Kukatpally, Hyderabad.

9 Dr. G. Indira, D/o. G. Ramaiah,
Diploma in Dermatology II year in Andhra Medical College,
R/o. 26-285, Z.P. Colony, Visakhapatnam.

10 Dr. Veena Kumari, D/o. N. Jangiah,
Diploma in Dermatology II year in Gandhi Medical College, Hyderabad.
R/o. Plot No. B-4, Flat No. 4, M.I.G. Bhagayanagar Colony, M.J. Road, Nampally, HYderabad.

11 Dr. Padmini, W/o. Dr. Surendra Kumar,
College, Kakinada. R/o. C/o. DR. C. Surendera Kumar,
beside Jansi Rani Hopital Subba Rao Peta, Tadapalligudem,
W.G. Dist.

(RR6 to RR11 are impleaded as per Court Order dated 29-7-2004 in WPMP 8259/2004.)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of Mandamus declaring the action of the 2nd respondent in not implementing the direction issued by Government in Memo.No.1149/E2/03, HM&FW Dept, dt. 7/02/2004, Circular issued by the Director of Medical Education in Rc.No.ME.A/Spl/2004, dt. 13/02/2004 and the orders issued by the Principal, Kurnool Medical College, in Rc.No.Ac.5/1769/2003-04, dt. 3/03/2004 for undergoing special classes and other training programme for awarding combined degree/diploma of M.D. Dermotovernology to the students who are studying courses of M.D. Dermotology and M.D.S.T.D. as highly arbitrary, illegal, and violative of Art 14,16 and 21 of the constitution of India, and consequentially to declare that the petitioners are entitled to undergo special classess and other training programmes for awarding the combined degree of M.D. Dermotoverneology.

Counsel for the Petitioners: MR.P.V.RAMANA

Counsel for the Respondents 1 to 4 : GP FOR MEDICAL HEALTH & FAMI.WELFARE

Counsel for the Respondent No.5: Dr. Y.Padmavathi

Counsel for the Respondents 6 to 11: Mr. Brahmadandi Ramesh

2)WRIT PETITION NO : 5103 of 2004

Between:

1 Dr. Neelima, W/o Dr. Hemanth, M.D.(Dermatology) Finan year,
Kurnool Medical College,Kurnool.

2 Dr. Anil Ravi Kumar, s/o S.V. Prathap, PG.Diploma in Dermatology, (Final Year), Kurnool Medical College,Kurnool.
3 Dr. M. Subramanya Swamy, S/o Roshaiah, M.D.(Dermatology) Final year, S.V. Medical College, Tirupathi.
4 Dr. J. Murali Mohan, s/o Radhakrishna Rao, PG.Diploma in Dermatology, (Final Year), S.V. Medical College, Tirupathi.
5 Dr. Zaheera Hussain, d/o Gazamfar Hussain, M.D. (Dermatology) II year, Osmania Medical College, Koti, Hyderabad.
6 Dr. Rukmini, W/o Dr. B. Saiprabhu, D.D.(Dermatology) Final year, Osmania Medical College, Koti, Hyderabad.
7 Dr. Basheer Ahmed, S/o Md. Zaherruddin, P.G.Diploma in Dermatology, Final year, Osmania Medical College, Koti, Hyderabad.
8 Dr. Mrs. B. Poorna Chandra, W/o Dr. Sanjay Varma, M.D.(Dermatology) II year, Osmania Medical College, Koti, Hyderabad.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, rep. by its Secretrary, Department of Health, Medical & Family Welfare, Secretariat, Hyderabad.
2 The Director of Medical Education, Andhra Pradesh, Kothi, Hyderabad.
3 NTR University of Health Sciences, A.P., Vijayawada- 520 008, rep. by its Registrar.
4 The Principal, Kurnool Medical College, Kurnool.
5 The Principal, SV Medical College, Tirupathi.
6 The Principal, Osmania Medical College, Kothi, Hyderabad.
7 The Medical Council of India, AIWAN-E-GALIB MARG, Kotla road, New Delhi.
(R.7 is added as per oral order dated 18.03.2004)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ specially writ of mandamus, declaring the action of respondent No.1 in issuing the impugned Memo No. 1149/E2/03 HM & FW dt. 7-2-2004 and also consequential Circular of the 2nd respondent Rc.No. ME.A/Spl/2004 dt. 13-2-2004 as illegal, arbitrary, violative of Art. 14, 19 (1) (g) of Constitution of India.

Counsel for the Petitioners: MR.B.NARAYANA REDDY

Counsel for the Respondents 1, 2, 4 to 6: GP FOR MEDICAL HEALTH & FAMI.WELFARE

Counsel for the Respondent No.3: Dr. Y.Padmavathi

Counsel for the Respondent No.7: Mr. S.Niranjan Reddy

3)WRIT PETITION NO : 6798 of 2004

Between:

1 Dr.C.V.Madhuri, w/o V.Hari Ram, Occ:P.G.M.D.Final Year in Guntur Medical College, Guntur, r/o Flat No.201, c/o C.V.Bhushan Rao, Sai Nikethan Apartments, Muthyalampadu Post, Satyanarayanapuram, Vijaywada.
2 Dr.K.Anuradha, d/o K.Ramesh, Occ:P.G.M.D.Final Year in Andhra Medical College, Vizag, r/o Flat No.1, A-Block, New Bhanu Apartment, Moghal Rajapuram, Vijayawada.
3 Dr.Sugandhan, s/o Sri Selvendram, Occ:P.G.M.D.III Year Student of Dermatology, Kakatiya Medical College, Warangal, Permanent r/o 76-7-21, Bhavnipuram, Vijayawada.

..... PETITIONERS

AND

1 The Principal Secretary, Govt., of A.P., Medical and Health and Family Welfare Department, A.P. Secretariat, Hyderabad.
2 The Director of Medical Education, A.P., Koti, Hyderabad.
3 The Registrar, NTR University of Health Sciences, Vijayawada.
4 The Principal, S.V.Medical College, Tirupathi, Chittoor District.
5 The Principal, Kurnool Medical College, Kurnool.
6 The Principal, Guntur Medical College, Guntur.
7 The Principal, Andhra Medical College, Vizag.
8 The Principal, Osmania Medical College, Hyderabad.
9 The Secretary, Medical Council of India, Kotla Road, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction writ more particularly one in the nature of writ of mandamus declaring the Memo issued by the Ist respondent vide Memo No.1149/E2/E3, dt.7-2-2004 and circular issued thereupon by the 2nd respondent bearing Rc.No.ME/A/Spl/2004 dt.13-2-2004 and the consequential orders issued by the respondent No.4 vide Ref.No.PGME/M3/2004, DT.21-2-2004 and vide Rc.No.Ac.5/1769/2003, dt.3-3-2004 issued by the respondent No.5, and vide Rc.No.355/ME/2/2004 dt. -2-2004 issued by the 6th respondent as illegal, unlawful, arbitrary, unconstitutional and ultra vires thereby set-aside the same in light of the P.G. Medical Education regulations made by the M.C.I., in 1993- and 2003 and also the resolution passed by the academic senate executive council by NTR University of Health Sciences, Vijayawada, dt.28-3-2003.

Counsel for the Petitioner: MR.B.V.RAM NARESH KUMAR

Counsel for the Respondents 1, 2, 4 to 8 : GP FOR MEDICAL HEALTH & FAMI.WELFARE

Counsel for the Respondent No.3: Dr. Y.Padmavathi

Counsel for the Respondent No.9: Mr. S.Niranjan Reddy

4)CONTEMPT CASE NO : 1309 of 2004

(Contempt Case U/s. 10 to 12 of Contempt of Courts Act to punish the Respondents 1,2 and 5 for violating/disobeying the Order of the High Court dated 24.09.2004 in WPMP No. 22224 of 2004 in WP No. 4779 of 2004.

Between:

1 M.Bhaskar, son of M.Naganna, student of PG MD(STD), Kurnool Medical College, Kurnool
2 K.Sreenivasa Rao, son of K.Suryanarayana Murty, P.G.Dip., STD Final year, Kurnool Medical College , Kurnool
3 D.Edukondala Rao, son of Venkaiah, P.G.in MD(STD), Kurnool Medical College, Kurnool

(Petitioner No.1 is not necessary party to this contempt case)

..... PETITIONERS

and

1 Dr. B.Anjaiah, Principal, Kurnool Medical College, Kurnool
2 Dr. Masthan Saheb, Professor and Head of the Dept., Dematology, Kurnool Medical College, Kurnool
3 The Director of Medical Education, Sultanbazar, Hyd
4 The Govt. of A.P., rep. by its Prl. Secretary , Health , Medical Family Welfare Dept., Secretariat, Hyderabad
5 Sri Jayakar Babu, N.T.R. University of Health Sciences, rep. by its Registrar, Vijayawada.

(Respondents 3 and 4 are not necessary parties to this case).

…Respondents

Counsel for the Petitioners: MR.P.V.RAMANA

Counsel for the Respondents 1 to 4 : **GP FOR MEDICAL HEALTH & FAMI.WELFARE**

Counsel for the Respondent No.5: Dr. Y.Padmavathi

The Court made the following :

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION Nos. 4779 of 2004, 5103 of 2004,

6798 of 2004 & Contempt Case No. 1309 of 2004

COMMON ORDER:

Heard Sri P.V.Ramana, Sri B.Narayana Reddy, Sri B.V.Ram Naresh Kumar, learned counsel appearing on behalf of the petitioners, and also Dr. Y.Padmavathi, learned standing counsel appearing on behalf of the fifth respondent.

Since common question arises in all these matters, they are being taken up together for disposal.

The petitioners in Writ Petition No. 4779 of 2004 are students of Post Graduation viz. M.D. (STD), who seek a Writ of Mandamus declaring the action of the respondents in not implementing the orders of the Government in Memo No. 1149/E2/03 HM & FW Department, dated 07.02.2004; Circular issued by the Director of Medical Education in Rc. No. ME.A/Spl./2004, dated 13.02.2004 and also the consequent orders issued by the Principal, Kurnool Medical College in Rc. No. Ac.5/1769/2003-04, dated 03.03.2004 for undergoing special classes and other training programme and for awarding combined degree/diploma in M.D. Dermatology to the students of M.D. S.T.D.

As stated above, the petitioners, who are studying in different years of the courses as referred to above, claim that having regard to the

separate P.G. degree course in M.D. Dermatology and Venerology, they were allotted separately to the same, which is not in consonance with the Regulations of the Government of India and the guidelines of the Medical Council of India. Therefore, it was decided that there should be a combined course- M.D. Dermatology and Venerology- as per the aforesaid Medical Council of India Regulations. In pursuance thereof, the Director of Medical Education intimated to the Government stating that the students who are studying separate courses may be considered for award of combined degree of M.D. Dermatology and Venerology. Thereupon, the Government having taking into consideration the proposals, advised the University to consider all such students who are doing separate courses, for awarding combined degree or diploma preceded by a common examination for all of them. The University also gave necessary directions to the concerned Principals of Medical Colleges for holding such common study. It was further pointed out that necessary direction has also been given by the Government to conduct special training classes and programmes. In accordance with the orders issued by the Government, the Director of Medical Education as per the proceedings dated 13.02.2004 issued instructions to all the Principals of Medical Colleges for undertaking the courses to both the students by providing necessary exposure in both the subjects so that a combined degree can be granted. In pursuance of the said order, the Principal of Kurnool Medical College issued proceedings dated 03.03.2004 informing the students, Professors and the concerned Heads of the Departments for awarding combined degree/diploma. The petitioners were accordingly been treated for such combined course and supposed to undergo special classes. But, though they reported to the second respondent in proper perspective therefore and even submitted a representation on 08.03.2004, the second respondent is not permitting the petitioners to attend the special classes, which is violative of the directions as given by the Government, the Director of Medical Education and the Principal of the Medical College as stated above. In view of the same, there is absolutely no justification for disallowing the petitioners from

availing such facilities, which has already been approved by the aforesaid authorities. It was further pointed out that any deviation therefrom would practically cause difficulties to the petitioners and once they come out of the college, there would not be any proper recognition to their services nor can they practice on such subjects. Hence, the Writ Petition.

In Writ Petition No. 5103 of 2004, the petitioners, who are the students of M.D. Dermatology, filed the Writ Petition, *inter alia,* seeking for a Writ of Mandamus challenging the very same aforesaid proceedings dated 07.02.2004 issued by the Government and the Circular dated 13.02.2004 issued by the Director of Medical Education and the consequential orders issued by the concerned authorities as illegal.

The claim of the petitioners in this Writ Petition is that having regard to the recognised course and commencement of classes therein, question of merger at this stage does not arise nor the same is valid in terms of the Rules and Regulations. Further, it is pointed out that none of the authorities, who had issued the impugned proceedings, has any power or authority or jurisdiction to change the very course and convert the same into a different or combined course as such. That apart, it is also pointed out that there is no consultation with the Medical Council of India nor any prior permission is obtained from the competent authorities of the Central Government. Hence, the said proceedings are invalid.

In Writ Petition No. 6798 of 2004, the petitioners who are doing Post Graduation in M.D. in the respective colleges, filed the Writ Petition, *inter alia,* assailing the very same proceedings dated 07.02.2004 issued by the Government and 13.02.2004 issued by the Director of Medical Education and the consequential proceedings issued by other authorities on the very same grounds.

The petitioners in Writ Petition No. 4779 of 2004 obtained interim directions in W.P.M.P. No. 22224 of 2004 dated 24.09.2004 permitting them to sit for the examination M.D.(DVL) to be held on 27.09.2004. Since the said interim order was not being complied with and they were not allowed to sit for the examination, they filed Contempt Case No. 1309 of 2004.

The main submissions made on behalf of the contesting respondents is that even though the Government and the Director of Medical Education issued the aforesaid proceedings, as sought to be relied on from one side and challenged by other side, there is no prior sanction or permission from the Medical Council of India or the Central Government, and therefore, the said authorities have no power as such and the same can not be implemented. Further, it is also pointed out that having regard to the nature of the course as contemplated with its syllabus, it is impracticable to join the two courses together at this stage. Further, it is also not possible to confer any such combined degree in the absence of proper approval thereof from the Medical Council of India or the Central Government.

Considering the submissions made from both the sides and on perusal of the material, the only question which remains to be considered is as to whether on the facts and circumstances, the action of the respondents in seeking to combine the two different courses into one and confer a common degree / diploma is permissible ?

There is no dispute to the fact that the petitioners on two sides have joined the courses, which run totally on parallel lines with its own syllabus and training programme. There is also no dispute in regard to their courses to which they were admitted. However, it is only at a late stage, having realised that in view of the commonness in these two studies viz. Dermatology, it is more feasible and advisable to

have a common degree. At the instance of the Director of Medical Education, the impugned proceedings have been taken up and ultimately, the Government allowed the same followed up by issuance of the Circular and the consequent directions by the respective Principals. However, the fact remains that in the entire process as commenced at doorstep of the Director of Medical Education till issuance of the impugned orders, absolutely there is no consultation much less prior permission as such, from the Medical Council of India or any approval obtained therefrom. Even otherwise, as per the Regulations as pointed out on behalf of the respondents, for any change or variation in the course, necessarily permission has to be obtained from the Central Government. There is no such permission or approval in the present case. Under the Regulation, neither the Government nor the Director of Medical Education, has power either to reframe the whole scheme in regard to the sanction of degrees or convert two courses into one and form a new combined degree/diploma.

The learned counsel appearing on behalf of the petitioners in Writ Petition No. 4779 of 2004 did not show as to how the authorities issued the impugned orders creating or joining any courses as such afresh and allot the same. The petitioners have already joined the courses which are already approved and they are undergoing training programme. In the midst thereof, the proposals as emanated from the Director of Medical Education and approved by the Government, do not have any legal sanction. In the circumstances, it has to be held that in the absence of proper approval or sanction obtained from either the Medical Council of India or the Central Government as affirmed therein, the respondents have no power to vary with the existing courses and award degree / diploma as such.

The Writ Petition No.4779 of 2004 is, accordingly, dismissed and consequently, Contempt Case No.1309 of 2004 also stands

dismissed. Writ Petition Nos. 5103 of 2004 and 6798 of 2004 are, accordingly, allowed setting aside the impugned orders. No costs.

(B.Prakash Rao, J.)

07.03.2005

DRK

That Rule Nisi has been made absolute as above in W.P. Nos. 5103 of 2004 & 6798 of 2004.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on Monday the seventh day of March two thousand and five.

… Registrar

Copy to:

1 Dr. B.Anjaiah, Principal, Kurnool Medical College, Kurnool
2 Dr, Masthan Saheb, Professor and Head of the Dept., Dematology, Kurnool Medical College, Kurnool
3 The Director of Medical Education, Sultanbazar, Hyd
4 The Prl. Secretary to Govt., Health , Medical Family Welfare Dept., Govt. of A.P., Secretariat, Hyderabad
5 Sri Jayakar Babu, Registrar, N.T.R. University of Health Sciences, Vijayawada.
6 The Principal Secretary, Dept. of Health, Medical & Family Welfare, Government of Andhra Pradesh, Secretariat, Hyderabad.
7 The Principal, SV Medical College, Tirupathi.
8 The Principal, Osmania Medical College, Kothi, Hyderabad.
9 The Principal, Guntur Medical College, Guntur.
10 The Principal, Andhra Medical College, Vizag.
11 The Secretary, Medical Council of India, Kotla Road, New Delhi.

12 Two CCs to the G.P. for Medical, Health & Family Welfare, High Court of A.P., High Court buildings, Hyderabad (o.u.t.)

13 Two CD copies.